

Senate Bill No. 1273

Passed the Senate August 17, 2004

Secretary of the Senate

Passed the Assembly August 12, 2004

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2004, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Sections 780, 781, and 782 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1273, Scott. Insurance: misrepresentations.

Existing law prohibits an insurer or his or her agent from issuing, circulating, or using any misrepresentation of the terms of a policy issued by the insurer or sought to be negotiated by the person making or permitting the misrepresentation, or from making any misrepresentation to another person for the purpose of inducing that other person to take out a policy of insurance or to induce that other person to lapse, forfeit, or surrender insurance in a policy he or she holds.

Existing law provides that a violation of these provisions is a crime, punishable by a fine not exceeding \$1,500, or imprisonment in a county jail for a period not exceeding 6 months.

This bill would, instead, prohibit the above actions with respect to any statement that is known, or should have been known, to be a misrepresentation. Because this bill would change the definition of a crime, it would impose a state-mandated local program.

This bill would provide that a violation of these provisions is punishable by a fine of up to \$25,000, or if the loss of the victim exceeds \$10,000, by a fine of up to 3 times that loss, by imprisonment in a county jail for a period of up to one year, or by both that fine and imprisonment.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 780 of the Insurance Code is amended to read:



780. An insurer or officer or agent thereof, or an insurance broker or solicitor shall not cause or permit to be issued, circulated or used, any statement that is known, or should have been known, to be a misrepresentation of the following:

(a) The terms of a policy issued by the insurer or sought to be negotiated by the person making or permitting the misrepresentation.

(b) The benefits or privileges promised thereunder.

(c) The future dividends payable thereunder.

SEC. 2. Section 781 of the Insurance Code is amended to read:

781. (a) A person shall not make any statement that is known, or should have been known, to be a misrepresentation (1) to any other person for the purpose of inducing, or tending to induce, such other person either to take out a policy of insurance, or to refuse to accept a policy issued upon an application therefor and instead take out any policy in another insurer, or (2) to a policyholder in any insurer for the purpose of inducing or tending to induce him or her to lapse, forfeit or surrender his or her insurance therein.

(b) A person shall not make any representation or comparison of insurers or policies to an insured which is misleading, for the purpose of inducing or tending to induce him or her to lapse, forfeit, change or surrender his or her insurance, whether on a temporary or permanent plan.

SEC. 3. Section 782 of the Insurance Code is amended to read:

782. Any person who violates the provisions of Section 780 or 781 is punishable by a fine not exceeding twenty-five thousand dollars (\$25,000), or in a case in which the loss of the victim exceeds ten thousand dollars (\$10,000), by a fine not exceeding three times the amount of the loss suffered by the victim, by imprisonment in a county jail for a period not to exceed one year, or by both a fine and imprisonment. Restitution to the victim ordered pursuant to Section 1202.4 of the Penal Code shall be satisfied before any fine imposed by this section is collected.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within

the meaning of Section 6 of Article XIII B of the California Constitution.



Approved _____, 2004

Governor

